

FILED

NOV 14 2008

Judge Jamie D. Happs

_____	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MIDDLESEX COUNTY
	:	
	:	<u>Civil Action</u>
IN RE ORTHO EVRA® BIRTH CONTROL:	:	ORTHO EVRA LITIGATION
PATCH LITIGATION	:	Case Code: 275
	:	
	:	
	:	CASE MANAGEMENT ORDER
	:	No. 10
_____	:	

THIS MATTER having been opened to the Court jointly by lead counsel for the plaintiffs and defendants, and for good cause shown,

IT IS on this 14 day of November 2008;

ORDERED as follows:

This Order supersedes all prior Orders.

The next Case Management Conference will be held on **January 28, 2009 @ 10:00am**.

BELLWETHER CASE SELECTION PROCEDURE

1. On or before **November 13, 2008**, the parties through lead counsel for plaintiffs and for defendants shall choose eight cases each and exchange those lists with opposing counsel.

2. By **November 20, 2008**, lead counsel shall alternatively strike cases from the list until there are eight cases left. These eight remaining cases shall be bellwether cases. Counsel for plaintiffs shall strike first as defense counsel struck first the last time. Counsel shall use their best efforts to choose bellwether cases that are a good mix of the

types of injuries alleged, pre and post-label change cases, and the firms representing plaintiffs.

3. The cases selected shall be the pool of bellwether cases for the first trials. Lead counsel shall meet and confer by **April 7, 2009**, to order the cases for trial. If the parties cannot agree, the Court shall hold a status conference.

4. If there is substantial attrition in the pool of bellwether cases due to settlement or dismissal, new cases shall be selected through a procedure to be agreed upon by counsel.

SCHEDULE FOR BELLWETHER CASE DISCOVERY – APPLICABLE TO THE EIGHT BELLWETHER CASES DISCUSSED ABOVE

5. Fact discovery for the bellwether cases shall end on **January 30, 2009**.

6. Choice of law motions, if any, shall be filed by **January 30, 2009**.

7. Plaintiffs' expert reports for the bellwether cases shall be served on or before **February 6, 2009**.

8. Defense expert reports for the bellwether cases shall be served on or before **April 3, 2009**.

9. No expert may testify at trial unless his/her report is served in accordance with the terms of this order.

10. All experts for the bellwether trial cases shall be deposed on or before **April 30, 2009**. Depositions of the experts for the remaining bellwether cases shall be completed by **May 31, 2009**.

FIRST BELLWETHER TRIAL

11. The parties shall exchange proposed exhibit lists, witness lists, and deposition designations no later than **May 18, 2009**.

12. The parties shall serve objections and counter deposition designations no later than **May 26, 2009**.

13. The parties shall serve proposed exhibit objections no later than **May 26, 2009**.

14. In limine, dispositive, and Kemp motions shall be filed according to the following schedule:

- i. File Motion: **May 11, 2009**
- ii. File Opposition: **May 13, 2009**
- iii. File Reply: **May 18, 2009**
- iv. Oral Argument: ***To be scheduled***

15. The parties shall submit trial briefs no later than **May 11, 2009**.

16. One page joint statement of the case for the jury pool and joint submission of questions for the jury voir dire to be submitted to the Court no later than **May 18, 2009**.

17. The parties shall submit final exhibit lists no later than **June 1, 2009**.

18. Proposed joint jury charges and verdict sheet shall be submitted to the Court no later than **June 1, 2009**.

19. All of the aforementioned documents filed with the Court shall be filed **by 12:00pm** on the due date.

20. The trial of the first bellwether case shall begin on **June 15, 2009**.


JAMIE D. HAPPAS, J.S.C.